

B. Initial Paperwork Reduction Act Analysis of 1995 Analysis

462. This document contains proposed new or modified information collection requirements. We note, however, that Section 213 of the Consolidated Appropriations Act 2000 provides that rules governing frequencies in the 746-806 MHz Band, which encompass the spectrum associated with both the D Block license and the 700 MHz public safety broadband and narrowband spectrum, become effective immediately upon publication in the Federal Register without regard to certain sections of the Paperwork Reduction Act.⁹⁷⁵ We are therefore not inviting comment pursuant to the Paperwork Reduction Act on any information collections proposed in this document.

C. Other Procedural Matters

1. Ex Parte Presentations

463. The rulemaking shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁹⁷⁶ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.⁹⁷⁷ Other requirements pertaining to oral and written presentations are set forth in Section 1.1206(b) of the Commission's rules.⁹⁷⁸

2. Comment Filing Procedures

464. Pursuant to Sections 1.415 and 1.419 of the Commission's rules,⁹⁷⁹ interested parties may file comments on or before the dates indicated on the first page of this document. All filings related to this Third Further Notice should refer to WT Docket No. 06-150 and PS Docket No. 06-229. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.⁹⁸⁰

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- ECFS filers must transmit one electronic copy of the comments for WT Docket No. 06-150 and PS Docket No. 06-229. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and WT Docket No. 06-150 and PS Docket No. 06-229. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by

⁹⁷⁵ *Id.*

⁹⁷⁶ 47 C.F.R. §§ 1.200 *et. seq.*

⁹⁷⁷ See 47 C.F.R. § 1.1206(b)(2).

⁹⁷⁸ 47 C.F.R. § 1.1206(b).

⁹⁷⁹ 47 C.F.R. §§ 1.415, 1.419.

⁹⁸⁰ See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, DC, 20554.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington DC 20554.

465. Parties should send a copy of their filings to: Nese Guendelsberger, Wireless Telecommunications Bureau, 445 12th Street, S.W., Washington, D.C. 20554, or by e-mail to nese.guendelsberger@fcc.gov; and Jeff Cohen, Public Safety and Homeland Security Bureau, 445 12th Street, S.W., Washington, D.C. 20554, or by e-mail to jeff.cohen@fcc.gov. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, Room CY-B402, 445 12th Street, S.W., Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

466. Documents in WT Docket No. 06-150 and PS Docket No. 06-229 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

3. Accessible Formats

467. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to FCC504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CARTS, etc.) by e-mail: FCC504@fcc.gov; phone: 202-418-0530 (voice), 202-418-0432 (TTY).

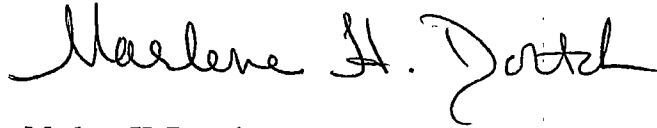
V. ORDERING CLAUSES

468. Accordingly, IT IS ORDERED pursuant to sections 1, 2, 4(i), 5(c), 7, 10, 201, 202, 208, 214, 301, 302, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, 333, 336, 337, 614, 615, and 710 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 155(c), 157, 160, 201, 202, 208, 214, 301, 302, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, 333, 336, and 337, that this THIRD FURTHER NOTICE OF PROPOSED RULEMAKING in WT Docket No. 06-150 and PS Docket No. 06-229 IS ADOPTED. The THIRD FURTHER NOTICE OF PROPOSED RULEMAKING shall become effective upon publication in the Federal Register.

469. IT IS FURTHER ORDERED that pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on the THIRD FURTHER NOTICE OF PROPOSED RULEMAKING on or before 30 days after publication in the Federal Register and reply comments on or before 40 days after publication in the Federal Register.

470. *IT IS FURTHER ORDERED* that the Commission *SHALL SEND* a copy of this *THIRD FURTHER NOTICE OF PROPOSED RULEMAKING* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Marlene H. Dortch". The signature is fluid and cursive, with the first name "Marlene" being the most prominent part.

Marlene H. Dortch
Secretary

APPENDIX A

Geographical Boundaries of the 58 Public Safety Regions

NUMBER	STATES, COUNTIES & TERRITORIES INCLUDED IN REGIONS
1.	ALABAMA
2.	ALASKA
3.	ARIZONA
4.	ARKANSAS
5.	CALIFORNIA-SOUTH (to the northernmost borders of San Luis Obispo, Kern, and San Bernardino Counties)
6.	CALIFORNIA-NORTH (that part of California not included in California-South)
7.	COLORADO
8.	<i>NEW YORK-METROPOLITAN</i> - NEW YORK: Bronx, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, Dutchess, and Westchester Counties; NEW JERSEY: Bergen, Essex, Hudson, Morris, Passaic, Sussex, Union, Warren, Middlesex, Somerset, Hunterdon, Mercer, and Monmouth Counties
9.	FLORIDA
10.	GEORGIA
11.	HAWAII
12.	IDAHO
13.	ILLINOIS (all except area in Region 54)
14.	INDIANA (all except area in Region 54)
15.	IOWA
16.	KANSAS
17.	KENTUCKY
18.	LOUISIANA
19.	<i>New England</i> - MAINE; NEW HAMPSHIRE; VERMONT; MASSACHUSETTS; RHODE ISLAND; CONNECTICUT
20.	MARYLAND; WASHINGTON, D.C.; VIRGINIA - NORTHERN (Arlington, Fairfax, Fauquier, Loudoun, Prince William and Stafford Counties; and Alexandria, Fairfax, Falls Church, Manassas and Manassas Park Cities)
21.	MICHIGAN
22.	MINNESOTA
23.	MISSISSIPPI
24.	MISSOURI
25.	MONTANA
26.	NEBRASKA

NUMBER	STATES, COUNTIES & TERRITORIES INCLUDED IN REGIONS
27.	NEVADA
28.	NEW JERSEY (except for counties included in the New York-Metropolitan, Region 8, above) PENNSYLVANIA (Bucks, Chester, Montgomery, Philadelphia, Berks, Delaware, Lehigh, Northampton, Bradford, Carbon, Columbia, Dauphin, Lackawanna, Lancaster, Lebanon, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne, Wyoming and York Counties); DELAWARE
29.	NEW MEXICO
30.	NEW YORK – ALBANY (all except area in New York - Metropolitan, Region 8, and New York - Buffalo, Region 55)
31.	NORTH CAROLINA
32.	NORTH DAKOTA
33.	OHIO
34.	OKLAHOMA
35.	OREGON
36.	PENNSYLVANIA (all except area in Region 28, above)
37.	SOUTH CAROLINA
38.	SOUTH DAKOTA
39.	TENNESSEE
40.	TEXAS - DALLAS (including the counties of Cooke, Grayson, Fannin, Lamar, Red River, Bowie, Wise, Denton, Collin, Hunt, Delta, Hopkins, Franklin, Titus, Morris, Cass, Tarrant, Dallas, Palo Pinto, Parker, Rockwall, Kaufman, Rains, VanZandt, Wood, Smith, Camp, Upshur, Gregg, Marion, Harrison, Panola, Rusk, Cherokee, Anderson, Henderson, Navarro, Ellis, Johnson, Hood, Somervell and Erath)
41.	UTAH
42.	VIRGINIA (all except area in Region 20, above)
43.	WASHINGTON
44.	WEST VIRGINIA
45.	WISCONSIN (all except area in Region 54)
46.	WYOMING
47.	PUERTO RICO
48.	U.S. VIRGIN ISLANDS
49.	TEXAS - AUSTIN (including the counties of Bosque, Hill, Hamilton, McLennan, Limestone, Freestone, Mills, Coryell, Falls, Robertson, Leon, San Saba, Lampasas, Bell, Milam, Brazos, Madison, Grimes, Llano, Burnet, Williamson, Burleson, Lee, Washington, Blanco, Hays, Travis, Caldwell, Bastrop, and Fayette)

NUMBER	STATES, COUNTIES & TERRITORIES INCLUDED IN REGIONS
50.	TEXAS - EL PASO (including the counties of Knox, Kent, Stonewall, Haskell, Throckmorton, Gaines, Dawson, Borden, Scurry, Fisher, Jones, Shackelford, Stephens, Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, Eastland, Loving, Winkler, Ector, Midland, Glasscock, Sterling, Coke, Runnels, Coleman, Brown, Comanche, Culberson, Reeves, Ward, Crane, Upton, Reagan, Irion, Tom Green, Concho, McCulloch, Jeff Davis, Hudspeth, El Paso, Pecos, Crockett, Schleicher, Menard, Mason, Presidio, Brewster, Terrell, Sutton, and Kimble)
51.	TEXAS - HOUSTON (including the counties of Shelby, Nacogdoches, San Augustine, Sabine, Houston, Trinity, Angelina, Walker, San Jacinto, Polk, Tyler, Jasper, Newton, Montgomery, Liberty, Hardin, Orange, Waller, Harris, Chambers, Jefferson, Galveston, Brazoria, Fort Bend, Austin, Colorado, Wharton, and Matagorda)
52.	TEXAS - LUBBOCK (including the counties of Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Grey, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Hardeman, Foard, Wilbarger, Wichita, Clay, Montague, Jack, Young, Archer, Baylor, King, Dickens, Crosby, Lubbock, Kockley, Cochran, Yoakum, Terry, Lynn, and Garza)
53.	TEXAS - SAN ANTONIO (including the counties of Val Verde, Edwards, Kerr, Gillespie, Real, Bandera, Kendall, Kinney, Uvalde, Medina, Bexar, Comal, Guadalupe, Gonzales, Lavaca, Dewitt, Karnes, Wilson, Atascosa, Frio, Zavala, Maverick, Dimmit, LaSalle, McMullen, Live Oak, Bee, Goliad, Victoria, Jackson, Calhoun, Refugio, Aransas, San Patricio, Nueces, Jim Wells, Duval, Webb, Kleberg, Kenedy, Brooks, Jim Hogg, Zapata, Starr, Hidalgo, Willacy, and Cameron)
54.	<i>Chicago – Metropolitan</i> – ILLINOIS: Winnebago, McHenry, Cook, Kane, Kendall, Grundy, Boone, Lake, DuPage, DeKalb, Will, and Kankakee Counties; WISCONSIN: Kenosha, Milwaukee, Washington, Dodge, Walworth, Jefferson, Racine, Ozaukee, Waukesha, Dane, and Rock Counties
55.	NEW YORK - BUFFALO (including the counties of Niagara, Chemung, Schuyler, Seneca, Erie, Chautauqua, Cattaraugus, Allegany, Wyoming, Genesee, Orleans, Monroe, Livingston, Steuben, Ontario, Wayne, and Yates)
56.	GUAM AND THE NORTHERN MARIANA ISLANDS
57.	AMERICAN SAMOA
58.	GULF OF MEXICO

APPENDIX B

Performance Tiers By Public Safety Region

PSR	PSR Name	Total Pops*	Land Area (SqM)*	Density	Coverage Required at End of 15 th Year of License Term
8	New York - Metropolitan	19,092,214	9,841	1,940.1	Tier 1: 98% coverage required for PSRs with a population density equal to or greater than 500 pops per square mile
47	Puerto Rico	3,808,610	3,425	1,112.1	
48	U.S. Virgin Islands	108,612	134	810.5	
57	American Samoa	57,291	77	744.0	
54	Chicago - Metropolitan	12,685,330	17,100	741.8	
20	Maryland; Washington, DC; Virginia - Northern	7,831,327	12,070	648.8	
56	Guam and the Northern Mariana Islands	224,026	389	575.9	
28	New Jersey, Pennsylvania, Delaware	10,526,480	22,729	463.1	Tier 2: 94 % coverage required for PSRs with a population density equal to or greater than 100 pops per square mile and less than 500 pops per square mile
5	California - South	20,637,512	56,512	365.2	
9	Florida	15,982,378	53,927	296.4	
33	Ohio	11,353,140	40,948	277.3	
55	New York - Buffalo	2,852,351	11,780	242.1	
51	Texas - Houston	5,618,958	25,166	223.3	
19	Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut	13,922,517	62,809	221.7	
40	Texas - Dallas	6,503,125	30,589	212.6	
11	Hawaii	1,211,537	6,423	188.6	
21	Michigan	9,938,444	56,804	175.0	
36	Pennsylvania	4,801,690	27,672	173.5	
31	North Carolina	8,049,313	48,711	165.2	
14	Indiana	4,763,619	31,283	152.3	
10	Georgia	8,186,453	57,906	141.4	
39	Tennessee	5,689,283	41,217	138.0	
42	Virginia	5,115,733	37,360	136.9	
37	South Carolina	4,012,012	30,109	133.2	
6	California - North	13,234,136	99,447	133.1	
30	New York - Albany	3,182,726	29,379	108.3	
18	Louisiana	4,468,976	43,562	102.6	
17	Kentucky	4,041,769	39,728	101.7	
49	Texas - Austin	2,254,226	24,263	92.9	Tier 3: 90 % coverage required for PSRs with a nonulation
43	Washington	5,894,121	66,544	88.6	
1	Alabama	4,447,100	50,744	87.6	
24	Missouri	5,595,211	68,886	81.2	

13	Illinois	3,722,488	49,049	75.9
44	West Virginia	1,808,344	24,078	75.1
53	Texas - San Antonio	3,916,309	53,562	73.1
22	Minnesota	4,919,479	79,610	61.8
23	Mississippi	2,844,658	46,907	60.6
45	Wisconsin	2,692,016	48,327	55.7
15	Iowa	2,926,324	55,869	52.4
4	Arkansas	2,673,400	52,068	51.3
34	Oklahoma	3,450,654	68,667	50.3
3	Arizona	5,130,632	113,635	45.2
7	Colorado	4,301,261	103,718	41.5
35	Oregon	3,421,399	95,997	35.6
16	Kansas	2,688,418	81,815	32.9
41	Utah	2,233,169	82,144	27.2
26	Nebraska	1,711,263	76,872	22.3
50	Texas - El Paso	1,472,545	72,617	20.3
52	Texas - Lubbock	1,086,657	55,600	19.5
27	Nevada	1,998,257	109,826	18.2
12	Idaho	1,293,953	82,747	15.6
29	New Mexico	1,819,046	121,356	15.0
38	South Dakota	754,844	75,885	9.9
32	North Dakota	642,200	68,976	9.3
25	Montana	902,195	145,552	6.2
46	Wyoming	493,782	97,100	5.1
2	Alaska	626,932	571,951	1.1
58	Gulf of Mexico	-	250,922	-

* Based on 2000 U.S. Census Data.

The first 55 Public Safety Regions are defined in Public Safety 700 MHz Band – General Use Channels: Approval of Changes to Regional Planning Boundaries of Connecticut and Michigan, *Public Notice*, 16 FCC Rcd 16359 (2001).

APPENDIX C

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 27 and 90 as follows:

PART 27 – MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

1. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337 unless otherwise noted.

2. Section 27.4 is amended by revising the following definitions in alphabetical order to read as follows:

§27.4 Terms and definitions.

* * * * *

Network Sharing Agreement (NSA). An agreement entered into between the winning bidder of an Upper 700 MHz D Block license, the Upper 700 MHz D Block licensee, the Network Assets Holder, the Operating Company, the Public Safety Broadband Licensee, and any other related entities that the Commission may require or allow regarding the shared wireless broadband network associated with that 700 MHz Public/Private Partnership that will operate on the 758-763 MHz and 788-793 MHz bands and the 763-768 MHz and 793-798 MHz bands.

* * * * *

Upper 700 MHz D Block license. The Upper 700 MHz D Block license authorizes services in the 758-763 MHz and 788-793 MHz bands.

* * * * *

3. Section 27.6 is amended by revising paragraphs (a) introductory text and (b)(3) to read as follows:

§ 27.6 Service areas.

(a) WCS service areas include Economic Areas (EAs), Major Economic Areas (MEAs), Regional Economic Area Groupings (REAGs), cellular markets comprising Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs), Public Safety Regions (PSRs) and a nationwide area. MEAs and REAGs are defined in the Table immediately following paragraph (a)(1) of this section. Both MEAs and REAGs are based on the U.S. Department of Commerce's EAs. See 60 FR 13114 (March 10, 1995). In addition, the Commission shall separately license Guam and the Northern Mariana Islands, Puerto Rico and the United States Virgin Islands, American Samoa, and the Gulf of Mexico, which have been assigned Commission-created EA numbers 173- 176, respectively. PSRs are comprised of the fifty five 700 MHz Regional Planning Committee regions, See 66 FR 51669-02 (Oct. 10, 2001)(as modified by Public Notice DA 01-2112, *Public Safety 700 MHz Band – General Use Channels: Approval of Changes to Regional Planning Boundaries of Connecticut and Michigan* (rel. Sept. 10, 2001), and three additional regions. The three additional PSR regions cover the same areas that are covered by the EAs for (1) the Gulf of Mexico; (2) Guam and the Northern Mariana Islands; and (3) American Samoa. PSRs are defined in the table immediately following paragraph (b)(3)(ii). The nationwide area is comprised of the geographic-areas covered by the 58 PSRs and covers the same area covered by contiguous 48 states,

Alaska, Hawaii, the Gulf of Mexico, and all of the U.S. territories included in Commission-created EAs. Maps of the EAs, MEAs, MSAs, RSAs, and REAGs and the Federal Register Notice that established the 172 EAs are available for public inspection and copying at the Reference Information Center, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Maps of the PSRs are also available for public inspection and copying at the Reference Information Center, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

* * * * *

(b) * * *

(3) Service areas for Block D in the 758-763 MHz and 788-793 MHz bands will be determined based on the results of the auction for licenses with respect to Block D. The Commission will offer in such an auction licenses for the following geographic service areas:

(i) A nationwide area as defined in paragraph (a) of this section.

(ii) Public Safety Regions (PSRs) as defined in paragraph (a) of this section. The geographic boundaries of the PSRs are defined in the table below:

PSR NUMBER	GEOGRAPHICAL BOUNDARIES OF PUBLIC SAFETY REGIONS (PSRs)
	STATES, COUNTIES & TERRITORIES INCLUDED IN REGIONS
1.	ALABAMA
2.	ALASKA
3.	ARIZONA
4.	ARKANSAS
5.	CALIFORNIA-SOUTH (to the northernmost borders of San Luis Obispo, Kern, and San Bernardino Counties)
6.	CALIFORNIA-NORTH (that part of California not included in California-South)
7.	COLORADO
8.	NEW YORK-METROPOLITAN - NEW YORK: Bronx, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, Dutchess, and Westchester Counties; NEW JERSEY: Bergen, Essex, Hudson, Morris, Passaic, Sussex, Union, Warren, Middlesex, Somerset, Hunterdon, Mercer, and Monmouth Counties
9.	FLORIDA
10.	GEORGIA
11.	HAWAII
12.	IDAHO
13.	ILLINOIS (all except area in Region 54)
14.	INDIANA (all except area in Region 54)

PSR NUMBER	GEOGRAPHICAL BOUNDARIES OF PUBLIC SAFETY REGIONS (PSRs)	
	STATES, COUNTIES & TERRITORIES INCLUDED IN REGIONS	
15.	IOWA	
16.	KANSAS	
17.	KENTUCKY	
18.	LOUISIANA	
19.	<i>New England</i> - MAINE; NEW HAMPSHIRE; VERMONT; MASSACHUSETTS; RHODE ISLAND; CONNECTICUT	
20.	MARYLAND; WASHINGTON, D.C.; VIRGINIA - NORTHERN (Arlington, Fairfax, Fauquier, Loudoun, Prince William and Stafford Counties; and Alexandria, Fairfax, Falls Church, Manassas and Manassas Park Cities)	
21.	MICHIGAN	
22.	MINNESOTA	
23.	MISSISSIPPI	
24.	MISSOURI	
25.	MONTANA	
26.	NEBRASKA	
27.	NEVADA	
28.	NEW JERSEY (except for counties included in the New York-Metropolitan, Region 8, above) PENNSYLVANIA (Bucks, Chester, Montgomery, Philadelphia, Berks, Delaware, Lehigh, Northampton, Bradford, Carbon, Columbia, Dauphin, Lackawanna, Lancaster, Lebanon, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne, Wyoming and York Counties); DELAWARE	
29.	NEW MEXICO	
30.	NEW YORK - ALBANY (all except area in New York - Metropolitan, Region 8, and New York - Buffalo, Region 55)	
31.	NORTH CAROLINA	
32.	NORTH DAKOTA	
33.	OHIO	
34.	OKLAHOMA	
35.	OREGON	
36.	PENNSYLVANIA (all except area in Region 28, above)	
37.	SOUTH CAROLINA	
38.	SOUTH DAKOTA	
39.	TENNESSEE	

PSR NUMBER	GEOGRAPHICAL BOUNDARIES OF PUBLIC SAFETY REGIONS (PSRs) STATES, COUNTIES & TERRITORIES INCLUDED IN REGIONS
40.	TEXAS - DALLAS (including the counties of Cooke, Grayson, Fannin, Lamar, Red River, Bowie, Wise, Denton, Collin, Hunt, Delta, Hopkins, Franklin, Titus, Morris, Cass, Tarrant, Dallas, Palo Pinto, Parker, Rockwall, Kaufman, Rains, VanZandt, Wood, Smith, Camp, Upshur, Gregg, Marion, Harrison, Panola, Rusk, Cherokee, Anderson, Henderson, Navarro, Ellis, Johnson, Hood, Somervell and Erath)
41.	UTAH
42.	VIRGINIA (all except area in Region 20, above)
43.	WASHINGTON
44.	WEST VIRGINIA
45.	WISCONSIN (all except area in Region 54)
46.	WYOMING
47.	PUERTO RICO
48.	U.S. VIRGIN ISLANDS
49.	TEXAS - AUSTIN (including the counties of Bosque, Hill, Hamilton, McLennan, Limestone, Freestone, Mills, Coryell, Falls, Robertson, Leon, San Saba, Lampasas, Bell, Milam, Brazos, Madison, Grimes, Llano, Burnet, Williamson, Burleson, Lee, Washington, Blanco, Hays, Travis, Caldwell, Bastrop, and Fayette)
50.	TEXAS - EL PASO (including the counties of Knox, Kent, Stonewall, Haskell, Throckmorton, Gaines, Dawson, Borden, Scurry, Fisher, Jones, Shackelford, Stephens, Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, Eastland, Loving, Winkler, Ector, Midland, Glasscock, Sterling, Coke, Runnels, Coleman, Brown, Comanche, Culberson, Reeves, Ward, Crane, Upton, Reagan, Irion, Tom Green, Concho, McCulloch, Jeff Davis, Hudspeth, El Paso, Pecos, Crockett, Schleicher, Menard, Mason, Presidio, Brewster, Terrell, Sutton, and Kimble)
51.	TEXAS - HOUSTON (including the counties of Shelby, Nacogdoches, San Augustine, Sabine, Houston, Trinity, Angelina, Walker, San Jacinto, Polk, Tyler, Jasper, Newton, Montgomery, Liberty, Hardin, Orange, Waller, Harris, Chambers, Jefferson, Galveston, Brazoria, Fort Bend, Austin, Colorado, Wharton, and Matagorda)
52.	TEXAS - LUBBOCK (including the counties of Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Grey, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Hardeman, Foard, Wilbarger, Wichita, Clay, Montague, Jack, Young, Archer, Baylor, King, Dickens, Crosby, Lubbock, Kockley, Cochran, Yoakum, Terry, Lynn, and Garza)

PSR NUMBER	GEOGRAPHICAL BOUNDARIES OF PUBLIC SAFETY REGIONS (PSRs) STATES, COUNTIES & TERRITORIES INCLUDED IN REGIONS
53.	TEXAS - SAN ANTONIO (including the counties of Val Verde, Edwards, Kerr, Gillespie, Real, Bandera, Kendall, Kinney, Uvalde, Medina, Bexar, Comal, Guadalupe, Gonzales, Lavaca, Dewitt, Karnes, Wilson, Atascosa, Frio, Zavala, Maverick, Dimmit, LaSalle, McMullen, Live Oak, Bee, Goliad, Victoria, Jackson, Calhoun, Refugio, Aransas, San Patricio, Nueces, Jim Wells, Duval, Webb, Kleberg, Kenedy, Brooks, Jim Hogg, Zapata, Starr, Hidalgo, Willacy, and Cameron)
54.	<i>Chicago – Metropolitan</i> – ILLINOIS: Winnebago, McHenry, Cook, Kane, Kendall, Grundy, Boone, Lake, DuPage, DeKalb, Will, and Kankakee Counties; WISCONSIN: Kenosha, Milwaukee, Washington, Dodge, Walworth, Jefferson, Racine, Ozaukee, Waukesha, Dane, and Rock Counties
55.	NEW YORK - BUFFALO (including the counties of Niagara, Chemung, Schuyler, Seneca, Erie, Chautauqua, Cattaraugus, Allegany, Wyoming, Genesee, Orleans, Monroe, Livingston, Steuben, Ontario, Wayne, and Yates)
56.	GUAM AND THE NORTHERN MARIANA ISLANDS
57.	AMERICAN SAMOA
58.	GULF OF MEXICO

4. Section 27.13 is amended by revising paragraphs (b) and (c) to read as follows:

§ 27.13 License period.

(b) 698–757 MHz, 775–787 MHz and 805–806 MHz bands. Initial authorizations for the 698–757 MHz and 776–787 MHz bands will extend for a term not to exceed ten years from February 17, 2009, except that initial authorizations for a part 27 licensee that provides broadcast services, whether exclusively or in combination with other services, will not exceed eight years. Initial authorizations for the 775–776 MHz and 805–806 MHz bands shall not exceed January 1, 2015. Licensees that initiate the provision of a broadcast service, whether exclusively or in combination with other services, may not provide this service for more than eight years or beyond the end of the license term if no broadcast service had been provided, whichever period is shorter in length.

(c) The paired 758–763 and 788–793 MHz bands. Initial WCS authorizations for the paired 758–763 MHz and 788–793 MHz bands will have a term not to exceed 15 years from the date of initial issuance or renewal.

5. Section 27.14 is amended by renumbering paragraph (o) as paragraph (q) and by revising paragraphs (e), (m), (n), and (o), and adding paragraph (p), to read as follows:

§ 27.14 Construction requirements; Criteria for renewal.

* * * * *

(e) Comparative renewal proceedings do not apply to WCS licensees holding authorizations for the 698–757 MHz and 776–787 MHz bands. These licensees must file a renewal application in accordance with the provisions set forth in § 1.949 of this chapter, and must make a showing of substantial service, independent of its performance requirements, as a condition for renewal at the end of each license term.

* * * * *

(m) A WCS licensee holding an authorization for the D Block in the 758-763 MHz and 788-793 MHz bands (the Upper 700 MHz D Block licensee) shall meet the following construction requirements in each PSR, except for the Gulf of Mexico PSR, comprising its license area.

(1) The Upper 700 MHz D Block licensee shall provide signal coverage and offer terrestrial service to at least 40 percent of the population in each PSR by the end of the fourth year, and 75 percent by the end of the tenth year of its license term. At the end of 15 years, the licensee must meet one of the following final benchmarks depending on the population density of the PSR:

(i) for PSRs with a population density equal to or greater than 500 people per square mile, the licensee will be required to provide signal coverage and offer terrestrial service to at least 98 percent of the population by the end of the fifteenth year.

(ii) for PSRs with a population density equal to or greater than 100 people per square mile and less than 500 people per square mile, the licensee will be required to provide signal coverage and offer terrestrial service to at least 94 percent of the population by the end of the fifteenth year; and

(iii) for PSRs with a population density less than 100 people per square mile, the licensee will be required to provide signal coverage and offer terrestrial service to at least 90 percent of the population by the end of the fifteenth year;

(2) The Upper 700 MHz D Block licensee may modify its population-based construction benchmarks with the agreement of the Public Safety Broadband Licensee and the prior approval of the Commission, where such a modification would better serve to meet commercial and public safety needs. Such modifications must be incorporated into the Network Sharing Agreement.

(3) The Upper 700 MHz D Block licensee shall meet the population benchmarks based using the most recent decennial U.S. Census Data available at the time of measurement for each PSR comprising its license area. The network and signal levels employed to meet these benchmarks must be consistent with the requirements in § 27.1305.

(4) A build-out schedule must be specified in the Network Sharing Agreement consistent with the requirements in this section. The build-out schedule shall include coverage for major highways and interstates, as well as such additional areas that are necessary to provide coverage for all incorporated communities with a population in excess of 3,000, unless the Public Safety Broadband Licensee and the Upper 700 MHz D Block licensee jointly determine, in consultation with a relevant community, that such additional coverage will not provide significant public benefit. Any coverage agreed under the Network Sharing Agreement to extend to major highways, interstates, and incorporated communities with populations greater than 3,000 beyond the network coverage required by the population benchmarks must

be completed no later than the end of the D Block license term. To the extent that coverage of major highways, interstates and incorporated communities with populations in excess of 3,000 requires the D Block licensee to extend coverage beyond what is required to meet its population benchmarks, the licensee shall be permitted to meet that additional coverage through non-terrestrial means, such as Mobile Satellite Service or other such technologies.

(n) The Upper 700 MHz D Block licensee holding an authorization for the Gulf of Mexico PSR shall negotiate with the Public Safety Broadband Licensee, as part of the Network Sharing Agreement, a coverage and service plan for public safety use in that region. Any disputes shall be resolved by the Commission pursuant to the dispute resolution procedures.

(o) The Upper 700 MHz D Block licensee shall demonstrate compliance with performance requirements by filing a construction notification with the Commission within 15 days of the expiration of the applicable benchmark, in accordance with the provisions set forth in § 1.946(d) of this chapter. The licensee must certify whether it has met the applicable performance requirement and must file a description and certification of the areas for which it is providing service. The construction notifications must include the following:

(1) Certifications of the areas that were scheduled for construction and service by that date under the Network Sharing Agreement for which it is providing service, the type of applications it is providing for each area, and the type of technology it is utilizing to provide these applications.

(2) Electronic coverage maps and supporting technical documentation providing the assumptions used by the licensee to create the coverage maps, including the propagation model and the signal strength necessary to provide service.

(p) At the end of its license term, the Upper 700 MHz D Block licensee must, in order to renew its license, make a showing of its success in meeting the material requirements set forth in the Network Sharing Agreement as well as all other license conditions, including the performance benchmark requirements set forth in this section.

* * * * *

6. Section 27.501 is revised to read as follows:

§ 27.501 746-763 MHz, 775-793 MHz, and 805-806 MHz bands subject to competitive bidding.

(a) Mutually exclusive applications for initial licenses in the 746-763 MHz, 775-793 MHz, and 805-806 MHz bands are subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this subpart.

(b) Competitive bidding rules for licenses in Block D in the 758-763 MHz and 788-793 MHz bands.

(i) Applications for licenses in the 758-763 MHz and 788-793 MHz bands are mutually exclusive if the licenses provide for use of different broadband platform technologies.

(ii) For an auction of licenses in the 758-763 MHz and 788-793 MHz bands covering the entire nation, no licenses will be assigned based on the results of an auction unless at the close of bidding in such auction there are provisionally winning bids for licenses that cover at least fifty percent (50%) of the nation's population; as determined consistent with the Commission's pre-auction announcement of the population for which each license will authorize service.

(iii) Notwithstanding any provision of Section 1.2104(g)(2)(ii), whether or not combinatorial bidding is available in the auction, the percentage for the additional payment portion of any applicable default payment pursuant to Section 1.2104(g)(2) will equal between 3 and 20 percent of the applicable bid, according to a percentage (or percentages) established by the Commission in advance of the auction.

(iv) Notwithstanding any provision of Section 1.2108, the Commission may defer the resolution of any petition to deny an application for any licenses in the 758-763 MHz and 788-793 MHz bands until the applicant, the Public Safety Broadband Licensee, and any other party the Commission may require or allow execute a Commission-approved NSA and such other agreements as the Commission may require or allow.

(v) Notwithstanding any provisions of Section 1.2109(b) or (c), whether or not combinatorial bidding is available in the auction, if the Commission for any reason does not assign a license to the applicant holding the winning bid for that license at the close of the auction, the Commission may, at its discretion, offer the same license to another party making the next highest bid for that license.

7. Section 27.502 is amended by revising the introductory text and adding paragraph (c) to read as follows:

§ 27.502 Designated entities.

Eligibility for small business provisions.

* * * * *

(c) The spectrum capacity of any Upper 700 MHz D Block license that is subject to any arrangements for the lease or resale (including under a wholesale agreement) of spectrum capacity shall not be considered when applying the provisions of Section 1.2110(b)(1)(iv)(A).

8. Section 27.1303 is amended by revising paragraph (e) to read as follows:

§ 27.1303 Upper 700 MHz D Block license conditions.

* * * * *

(e) The Upper 700 MHz D Block licensee must provide the Public Safety Broadband Licensee with priority access during emergencies, as specified in § 27.1317(e).

* * * * *

9. Section 27.1305 is revised to read as follows:

§ 27.1305 Shared wireless broadband network.

The Shared Wireless Broadband Network developed by the 700 MHz Public/Private Partnership must be designed to meet requirements associated with an interoperable, nationwide public safety broadband network as specified in this section. All specified mandatory requirements as defined in this section must be incorporated in the Network Sharing Agreement, and shall be used in the determination of compliance under §27.14(p). The Public Safety Broadband Licensee and the Upper 700 MHz D Block licensee may

add any capabilities or features beyond those in these rules based on mutually agreeable terms under the Network Sharing Agreement. The Shared Wireless Broadband Network shall incorporate the following:

(a) A design for public safety operations over a broadband IP-based technology platform that (i) utilizes standardized commercial technology, (ii) provides fixed and mobile voice, video, and data capability that is interoperable across public safety local and state agencies, jurisdictions, and geographic areas, and (iii) includes current and evolving state-of-the-art technologies reasonably made available in the commercial marketplace with features beneficial to the public safety community.

(1) Such a design shall provide a nationwide common radio access network air interface to enable the Shared Wireless Broadband Network to support nationwide level interoperability. The common air interface shall allow migration to future technology upgrades. In the case of regional Upper 700 MHz D Block licensees, the common radio access network air interface will be determined via the auction process and each regional Upper 700 MHz D Block licensee will be required to enter into arrangements both with other regional Upper 700 MHz D Block licensees and with the Public Safety Broadband Licensee as necessary to ensure interoperability between their networks. Such arrangements must provide, at a minimum, that each regional Upper 700 MHz D Block licensee will provide the ability to roam on its network to public safety users of all other Shared Wireless Broadband Networks. Regional Upper 700 MHz D Block licensees are not permitted to assess special roaming charges (over and above service fees charged for in-region use) in cases where public safety users require roaming for mutual aid or emergencies.

(2) The technology selected for the Shared Wireless Broadband Network shall be permitted to evolve based on commercial wireless upgrade timeframes, except that future upgrades shall include user equipment backward compatibility, as supported by commercial product availability and specified in the technology standards, to allow for commercially reasonable transition periods for public safety entities' user equipment. The notification and impact management processes relating to technology upgrades, and migration to such upgrades, shall be defined and agreed to in the Network Sharing Agreement.

(3) To promote interoperability between the Shared Wireless Broadband Network and voice-based public safety networks in other frequency bands, the Upper 700 MHz D Block licensee will publish IP-based specifications describing how such other public safety networks may access the Upper 700 MHz D Block licensee's Shared Wireless Broadband Network via bridges and/or gateways. The Upper 700 MHz D Block licensee shall charge these other public safety networks for such access no more than the relevant fee established or approved by the Commission. Public safety users shall bear the costs of the bridges and gateways, including installation and maintenance costs.

(4) The Shared Wireless Broadband Network shall support a Voice over Internet Protocol (VoIP) capability to complement existing public safety mission critical voice communication systems. The VoIP capability shall allow interconnection with the Public Switched Telephone Network as well as with other public safety VoIP users on the network. VoIP features will include but not be limited to Push-To-Talk.

(b) Availability, robustness, and hardening requirements as follows:

(1) The Shared Wireless Broadband Network shall provide 99.6 percent network availability for all terrestrial elements of operation in the coverage areas certified pursuant to §27.14(o)(1), calculated over each license area annually, starting four years after license issuance. The Upper 700 MHz D Block licensee shall use commercially reasonable efforts to provide network availability above this requirement, with the target of 99.9 percent network availability.

(2) The method for measuring availability shall be defined in the Network Sharing Agreement, which

shall (i) be a measure of infrastructure availability as measured from the cell site radio antenna through and across the core network; (ii) exclude radio signal coverage and scheduled maintenance downtime with prior notice to the Public Safety Broadband Licensee; (iii) exclude outages caused by actions or events outside the reasonable control of the Upper 700 MHz D Block licensee; and (iv) exclude outages only affecting limited applications.

(3) The Shared Wireless Broadband Network design specifications shall include commercial best practices, such as Network Reliability and Interoperability Council best practices, that take into consideration local influencing factors such as weather, geology, and building codes on network attributes such as hardening of transmission facilities and antenna towers, extended backup power, seismic safety standards, and accommodations for wind, ice, and other natural phenomenon.

(4) The Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee, in consultation with the relevant community, shall jointly designate "critical" sites. The designation of sites as "critical" shall not be required to cover more than 35 percent of the Shared Wireless Broadband Network sites for the Upper 700 MHz D Block licensee; however, the Upper 700 MHz D Block licensee shall use commercially reasonable efforts to designate as "critical" additional sites requested by the Public Safety Broadband Licensee, up to 50 percent of all the licensee's sites. Sites designated as "critical" shall have battery backup power of 8 hours, and shall have generators with a fuel supply sufficient to operate the generators for at least 48 hours. The Upper 700 MHz D Block licensee shall make commercially reasonable efforts to provide a fuel supply at "critical" sites above this requirement sufficient for a minimum of 5 days. The Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee, in consultation with the relevant community, shall jointly determine the sites that will require redundant backhaul in order to comply with the network availability requirements in this section.

(5) The Upper 700 MHz D Block Licensee and the Public Safety Broadband Licensee may agree on other methods to improve network resiliency in lieu of designating "critical" cell sites as described in paragraph (4) of this subsection. These may include deployment of mobile assets or the use of satellite facilities.

(c) A capability incorporated into the Shared Wireless Broadband Network infrastructure to provide monthly usage reports covering network capacity and priority access so that the Public Safety Broadband Licensee can monitor usage and provide appropriate feedback to the Upper 700 MHz D Block licensee on operational elements of the network.

(d) Security and encryption consistent with commercial best practices. For purposes of complying with this paragraph, the Upper 700 MHz D Block licensee shall:

(1) Comply with U.S. government standards, guidelines, and models that are commercial best practices for wireless broadband networks.

(2) Implement controls to ensure that public safety priority and secure network access are limited to authorized public safety users and devices, and utilize an open standard protocol for authentication.

(3) Allow for public safety network authentication, authorization, automatic logoff, transmission secrecy and integrity, audit control capabilities, and other unique attributes.

(e) A mechanism to ensure Quality of Service (QoS) for public safety and to establish various levels of priority for public safety communications. The Upper 700 MHz D Block licensee shall not be obligated to implement this provision before appropriate standards are developed and appropriate hardware and software are available on commercially reasonable terms. The Upper 700 MHz D Block Licensee and the Public Safety Broadband Licensee shall use reasonable efforts to work with applicable standards

organizations, network equipment manufacturers, and other suppliers to accelerate the commercially reasonable availability of these features for the Shared Wireless Broadband Network. The Public Safety Broadband Licensee shall have authority to establish access priority and service levels, and authenticate and authorize public safety users. In addition, the following provisions for QoS shall be incorporated into the operational capabilities of the Shared Wireless Broadband Network.

- (1) Priority shall be defined as Public Safety Broadband Licensee-approved user or class of users, network, application, and services priorities that, via user or class of users or device identification, or both, offer the highest assignable levels of priority for network access and use of network resources, services, and applications.
 - (2) The Shared Wireless Broadband Network shall provide emergency priority access pursuant to §27.1307(e).
 - (3) The Shared Wireless Broadband Network shall provide an appropriate priority to 9-1-1 calls.
 - (4) QoS resource reservation and session control mechanisms shall be incorporated into the operational capabilities of the Shared Wireless Broadband Network.
 - (5) QoS shall be considered to be the full class of mechanisms that are found at multiple IP layers in the network (both radio access network and core), and that provision and apply priority for IP packet based traffic.
 - (6) The assignment of network resources shall enable user or service priority, or both, in addition to the QoS requirements of the application.
 - (7) The Shared Wireless Broadband Network shall support multiple IP data services and application session flows between a user device and network, where each flow may have a different QoS requirement and priority level.
 - (8) If network resources are not available to meet a resource reservation request, the Shared Wireless Broadband Network shall have the ability to provide a new QoS consistent with the limited network resources.
- (f) Operational capabilities to support public safety systems as specified below:
- (1) The Shared Wireless Broadband Network shall provide access for all applications and services, hosted applications and services, and third party public safety applications and services specified in the Network Sharing Agreement. The Public Safety Broadband Licensee shall give consideration of particular applications to the overall impact on overall system performance.
 - (2) The Shared Wireless Broadband Network shall provide for the application data rates shown in Table 1.
 - (3) The Shared Wireless Broadband Network shall be designed to provide edge of cell data rates shown in Table 2. Typical data rates should be designed for at least 1 Mbs downlink and 600 kbps uplink. The data link speeds for public safety users must be at least as fast as the best data speeds provided to commercial users of the Shared Wireless Broadband Network.
 - (4) The Shared Wireless Broadband Network must provide indoor coverage for VoIP consistent with the propagation parameters shown in Table 3.

(5) For purposes of these Tables 2 and 3, the following definitions apply in terms of population per square mile: dense urban: 15,000 people or greater; urban 2,500 – 14,999; suburban 200-2499; and rural 0 – 199.

(6) The data rates in this section are design objectives and are not to be applied for a particular device, time or location.

(7) Signal coverage, propagation, and capacity parameters in Table 2 and 3 shall be reviewed by the Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee no less than every four years to assess the impact of benefits from technology evolution and general improvement in network coverage consistent with paragraph (a)(2).

Table 1 to § 27.1305 — Applications and Services QoS Attributes

Application/Service	Description	Data Rate
File transfer	FTP and general data upload / download	Greater than 256kb/s
Email	Both Web based and Entity Hosted E-Mail Service	Less than 16kb/s
Web browsing	Intranet, extranet, and internet	Greater than 32kb/s
Mobile voice	Equivalent to current commercial mobile voice	Minimum 15 kb/s
Push to talk (PTT) voice	Commercial grade PTT / PoC offerings with group call, alerting, and monitoring capability.	4-25 kb/s
Indoor video	Video that is transmitted from inside a building	20-384 kb/sF
Outdoor video	Video that is transmitted from the street	32-384 kb/s
Location services	All location based services	Less than 16kb/s
Database transactions	Remote databases access both under the entities' direct control as well as databases that are local	Less than 32kb/s
Messaging	Instant messaging, SMS, and Push to X services	Less than 16kb/s
Network Operations data	Network operational and maintenance data including over the air programming and remote client management	Less than 32kb/s
Dispatch data	Data as it relates to computer aided dispatching.	Less than 64kb/s
Generic traffic	General category for traffic that does not fall within any of the categories described above, and that generates less than 64kb of data per second	Less than 64kb/s
Telemetry	Remote measurement and reporting of information for radio devices, vehicles, and sensor data	70-120 kb/s
Virtual Private Networking	Secure remote access to entity LAN and WAN environments	64 – 256 kb/s

Table 2 to § 27.1305 Data Propagation and Capacity Parameters				
Morphology	Cell Coverage Area Reliability	Sector Loading Factor	Forward Link Throughput On-Street Single user Average Cell-edge	Reverse Link Throughput On-Street Single user Average Cell-edge
Dense Urban	95%	70%	256 kbps	256 kbps
Urban	95%	70%	256 kbps	256 kbps
Suburban	95%	70%	128 kbps	128 kbps
Rural	95%	70%	128 kbps	128 kbps
Highway	95%	70%	64 kbps	64 kbps

Table 3 to § 27.1305 Voice Propagation and Capacity Parameters			
Morphology	In-Building Penetration Margin	Cell Coverage Area Reliability	Sector Loading Factor
Dense Urban	22 dB	95%	70%
Urban	19 dB	95%	70%
Suburban	13 dB	95%	70%
Rural	6 dB	95%	70%
Highway	6 dB	95%	70%

Section 27.1307 is amended by revising paragraph (d) and adding paragraph (e) to read as follows:

§ 27.1307 Spectrum use in the network.

* * * * *

(d) The Upper 700 MHz D Block licensee may construct and operate the Shared Wireless Broadband Network using both the 758-763 MHz and 788-793 MHz bands as well as the 763-768 MHz and 793-798 MHz bands as a combined resource. If the Upper 700 MHz D Block licensee chooses to operate the spectrum as a combined resource, however, 50 percent of the capacity available from the combined 20 megahertz of spectrum must be assigned to public safety users and the other 50 percent must be assigned to the commercial users, consistent with the respective capacity and priority rights of the Upper 700 MHz D Block license and the Public Safety Broadband License and with rules in this Part.

(e) Emergency Priority Access.

(1) The Upper 700 MHz D Block licensee must provide public safety users priority access to, but not preemptive use of, up to 40 percent of the commercial spectrum capacity (two megahertz in each of the uplink and downlink blocks), assuming the full public safety broadband block spectrum capacity is being used, for an aggregate total of 14 megahertz of overall network capacity in the following circumstances:

- (i) The President or a state governor declares a state of emergency.
- (ii) The President or a state governor issues an evacuation order impacting areas of significant scope.
- (iii) The national or airline sector threat level is set to red.

(2) The D Block licensee must provide priority access to, but not preemptive use of, up to 20 percent of the commercial spectrum capacity (one megahertz in each of the uplink and downlink blocks) in the following circumstances:

- (i) The National Weather Service issues a hurricane or flood warning likely to impact a significant area.
- (ii) The occurrence of other major natural disasters, such as tornado strikes, tsunamis, earthquakes, or pandemics.
- (iii) The occurrence of manmade disasters or acts of terrorism of a substantial nature.
- (iv) The occurrence of power outages of significant duration and scope.
- (v) The national threat level is set to orange.

(3) The Upper 700 MHz D Block licensee must assign the next available channel to the requesting public safety user over a commercial user—i.e., the public safety user would be placed at the top of the queue—and should not preempt a commercial call in progress. Emergency priority access is limited to the time and geographic scope of the emergency.

(4) To trigger emergency priority access, the Public Safety Broadband Licensee must request, on behalf of the impacted public safety agencies, that the Upper 700 MHz D Block licensee provide such access. Emergency priority access requests initiated by the Public Safety Broadband Licensee will cover a 24-hour time period, and must be reinitiated by the Public Safety Broadband Licensee for each 24-hour time period thereafter that the priority access is required.

(5) In the event that the Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee do not agree that an emergency has taken place, the Public Safety Broadband Licensee may request the Defense Commissioner to resolve the dispute.

10. Section 27.1310 is amended by revising paragraphs (c), (d), (f), (g), and (j), and adding paragraphs

(k) through (n), to read as follows:

§ 27.1310 Network sharing agreement.

* * * * *

(c) The definition of “emergency” for purposes of emergency priority access, as described in Section 27.1307(e).

(d) All service fees to be imposed for services to public safety, including fees for normal network service, interconnected service, and fees for priority access to the D Block spectrum in an emergency.

* * * * *

(f) The right of the Public Safety Broadband Licensee to determine and approve the specifications of public safety equipment used on the network and the right to purchase its own subscriber equipment from any vendor it chooses, to the extent such specifications and equipment are consistent with reasonable network management requirements.

(g) The terms, conditions, and timeframes pursuant to which the Upper 700 MHz D Block licensee must make available at least one handset suitable for public safety use that includes an integrated satellite solution.

* * * * *

(j) To the extent that interoperability arrangements between the Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee are required under §27.1305(a)(1), the terms and conditions of the arrangement, including the terms and conditions under which roaming will be provided to public safety users of other Shared Wireless Broadband Networks.

(k) The terms of a standard agreement under which public safety networks operating in other frequency bands may connect to the Shared Wireless Broadband Network pursuant to and in accordance with §27.1305(a)(1).

(l) Terms regarding the establishment of access priorities, service levels and related requirements, and approval of public safety applications and end user devices, by the Public Safety Broadband Licensee.

(m) A process for forecasting demand for public safety usage.

(n) A contract term, not to exceed a 15 year period that coincides with the terms of the Upper 700 MHz D Block license and the Public Safety Broadband License.

11. Section 27.1315 is amended by revising paragraphs (a), (b), (c), (f)(4), and (g) to read as follows:

§ 27.1315 Establishment, execution, and application of the network sharing agreement.

* * * * *

(a) Approval of NSA as pre-condition for granting the Upper 700 MHz D Block License. The Commission shall not grant an Upper 700 MHz D Block license until the winning bidder for the subject Upper 700 MHz D Block license has negotiated an NSA and such other agreements as the Commission may require or allow with the Public Safety Broadband Licensee, and the NSA and related agreements, or documents have been approved by the Commission and executed by the required parties. Parties to the NSA must also include the Upper 700 MHz D Block licensee, a Network Assets Holder, and an Operating Company, as these entities are defined in § 27.4.

(b) Requirement of negotiation. Negotiation of an NSA between a winning bidder for an Upper 700 MHz D Block license and the Public Safety Broadband Licensee must commence by the date the winning bidder files its long form application or the date on which the Commission designates the Public Safety Broadband Licensee, whichever is later, and must conclude within six months of that date. Parties to this

negotiation are required to negotiate in good faith. Two members of the Commission staff, one from the Wireless Telecommunications Bureau and one from the Public Safety and Homeland Security Bureau, shall be present at all stages of the negotiation as neutral observers.

(c) Reporting requirements. A winning bidder for the Upper 700 MHz D Block license must file a report with the Commission within 10 business days of the commencement of the negotiation period certifying that active and good faith negotiations have begun, providing the date on which they commenced, and providing a schedule of the initial dates on which the parties intend to meet for active negotiations, covering at a minimum the first 30-day period. Beginning three months from the triggering of the six-month negotiation period, the winning bidder for a Upper 700 MHz D Block license and the Public Safety Broadband Licensee must jointly provide detailed reports, on a monthly basis and subject to a request for confidential treatment, on the progress of the negotiations throughout the remainder of the negotiations. These reports must include descriptions of all material issues that the parties have yet to resolve.

* * * * *

(f) * * *

(4) Determining that no resolution of the disputed issues can be made consistent with the public interest.

(g) Lack of a Commission-approved NSA and such other agreements as the Commission may require or allow. If a winning bidder chooses not to execute a Commission-approved NSA or such other agreements as the Commission may require or allow within 10 business days of Commission approval, the winning bidder's long-form application will be dismissed, the winning bidder will be deemed to have defaulted under § 1.2109(c) of this chapter, and the winning bidder will be liable for the default payment specified in § 1.2104(g)(2) of this chapter and § 27.501(b)(3) of this chapter. In all other circumstances in which the parties do not submit executed copies of a Commission-approved NSA and such other agreements within the time permitted by this section and the Commission does not dismiss the winning bidder's long-form application for reasons other than the lack of a Commission-approved NSA, the winning bidder's long-form application will be dismissed and any payments made toward the winning bid will be returned to the payor(s) of record.

12. Section 27.1330 is amended by revising paragraph (b) to read as follows:

§ 27.1330 Local public safety build-out and operation.

* * * * *

(b) Rights to early build-out in areas with a build-out commitment. In an area where the Upper 700 MHz D Block licensee has committed, in the NSA, to build out by a certain date, a public safety entity may, with the pre-approval of the Public Safety Broadband Licensee and the Upper 700 MHz D Block licensee, and subject to the requirements set forth herein, construct a broadband network in that area at its own expense so long as the network is capable of operating on the Shared Wireless Broadband Network and meets all the requirements and specifications of the network required under the NSA.

* * * * *

(4) Attribution of early build-out to applicable construction benchmarks. Upon completion of construction, transfer of ownership to the Upper 700 MHz D Block licensee, and compensation as required herein, if applicable, the Upper 700 MHz D Block licensee may include the network constructed pursuant to the early build-out provisions herein for purposes of determining whether it has met its build-out benchmarks and the build-out requirements of the NSA.

13. Section 27.1340 is amended by adding paragraph (c) as follows:

§ 27.1340 Reporting obligations.

(c) The Upper 700 MHz D Block licensee must provide regular monthly reports on network usage to the Public Safety Broadband Licensee.

PART 90 – PRIVATE LAND MOBILE RADIO SERVICES

14. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7) unless otherwise noted.

15. Section 90.7 is amended by adding the following definitions in alphabetical order to read as follows:

§90.7 Definitions.

Network Sharing Agreement (NSA). An agreement entered into between the winning bidder of an Upper 700 MHz D Block license, the Upper 700 MHz D Block licensee, the Network Assets Holder, the Operating Company, the Public Safety Broadband Licensee, and any other related entities that the Commission may require or allow regarding the shared wireless broadband network associated with that 700 MHz Public/Private Partnership that will operate on the 758-763 MHz and 788-793 MHz bands and the 763-768 MHz and 793-798 MHz bands.

Upper 700 MHz D Block license. The Upper 700 MHz D Block license authorizes services in the 758-763 MHz and 788-793 MHz bands.

16. Section 90.18 is revised to read as follows:

§ 90.18 Public Safety 700 MHz Nationwide Broadband Network.

The 763-768/793-798 MHz band is dedicated to a broadband public safety communications system with a nationwide level of interoperability. A nationwide license for this spectrum is held by a single entity, the Public Safety Broadband Licensee, which must enter into the 700 MHz Public/Private Partnership with the Upper 700 MHz D Block licensee, pursuant to a Network Sharing Agreement and such other agreements as the Commission may require. The specific provisions relating to the 700 MHz Public/Private Partnership are set forth in subpart AA of this part and subpart N of Part 27. The Public Safety 700 MHz Nationwide Broadband Network is established in PS Docket No. 06-229.

17. Section 90.523 is revised to read as follows:

§ 90.523 Eligibility.

This section implements the definition of public safety services contained in 47 U.S.C. 337(f)(1).

(a) **Public Safety Narrowband Spectrum Eligibility Criteria.** The eligibility criteria to hold Commission authorizations to deploy and operate systems in the 769-775 MHz and 799-805 MHz (public safety narrowband) frequency bands are as follows:

(1) **Public Safety Services.** Authorizations to deploy and operate systems in the 769-775 MHz and 799-805 MHz frequency bands are limited to services the sole or principal use of which is to protect the safety of life, health, or property, and which are not made commercially available to the public by the license holder. Public Safety Services may be provided either by:

(i) **State or Local Government Entities,** including any territory, possession, state, city, county, town, or similar State or local governmental entity, or

(ii) **Nongovernmental Organizations (NGO) that are authorized by a state or local government entity whose primary mission is the provision of Public Safety Services, provided that the NGO:**

(A) Has the ongoing authorization of a state or local governmental entity whose mission is the provision of Public Safety Services;

(B) Operates such authorized system consistent with the limitations in subsection (a)(1); and

(C) Submits with its applications a written certification of support by the state or local governmental entity referenced in subparagraph (a)(1)(ii)(A) of this section.

(2) NGOs assume all risks associated with operating under the conditions specified in subsection (a)(1)(ii). Authorizations issued to NGOs to operate systems in the 769-775 MHz and 799-805 MHz frequency bands include the following condition: If at any time the authorizing governmental entity notifies the Commission in writing of such governmental entity's termination of its authorization of a NGO's operation of a system in the 769-775 MHz and 799-805 MHz frequency bands, the NGO's authorization shall terminate automatically.

(b) **Public Safety Broadband Spectrum Use Eligibility Criteria.** Only entities that meet the public safety narrowband spectrum eligibility criteria in paragraph (a) of this section, shall be eligible to access the Shared Wireless Broadband Network, operating in the 763-768 MHz and 793-798 MHz (public safety broadband) frequency bands, under the authorization of the Public Safety Broadband Licensee, in accordance with the terms of the Network Sharing Agreement governing the use of this network.

(c) **Public Safety Broadband License Eligibility Criteria.** The minimum eligibility requirements to hold the Public Safety Broadband License covering the 763-768 MHz and 793-798 MHz public safety broadband frequency bands are as follows:

(1) No commercial interest may be held in the Public Safety Broadband Licensee, and no commercial interest may participate in the management of the Public Safety Broadband Licensee.

(2) The Public Safety Broadband Licensee must be a non-profit organization.